IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.552 OF 2005
IN
NOTICE OF MOTION NO.325 OF 2003
IN
SUIT NO.41 OF 2003

Max Cajetan Travasso & ors. Appellants

versus

Lal Bhermal Laungani Respondents

Mr.V.A.Thorat, Sr.Counsel with A.Bookwala i/by Pankaj Thatte for appellant.

Mr.Aspi Chinoy, Sr.Counsel with Kishor Jain with Mr.Niranjan Lapashiya with Mr.Shailesh Bontre with Mr.Satyam Vora i/by M/s.Niranjan & Co. for respondents.

CORAM : DR.S.RADHAKRISHNAN AND
S.C.DHARMADHIKARI, JJ.

DATE : 29th August 2005

PC :

1. Heard learned counsel for the appellant and respondents.

2. The appellant is challenging the order dated 18th February 2005 in Notice of Motion no.325 of 2004. It appears that the present appeal was lodged on 18th March 2005 by the present

appellant. The respondents also had filed an appeal before this Court challenging the very same order. The said appeal came up before this Court on 15th April 2005, 25th April 2005 and ultimately on 26th April 2005. The appeal was allowed to be withdrawn and the same stood dismissed. The learned counsel appearing for respondents Mr.Chinoy strongly opposes maintainability of this appeal on the basis of estoppel by contending that the present appellant ought to have disclosed to this Court on 26th April 20005 about the pendency of the present appeal. He also contends that pursuant to the above order dated 18th February 2005 the respondents have already deposited a sum of Rs.4.00 crores with the Prothonotary & Senior Master and as such this appeal ought not to be entertained.

3. It appears that the appellant has already taken out two Notices of Motion before the learned Single Judge for various reliefs being Notices of Motion Nos.1412 of 2005 and 2192 of 2005, which are pending before learned single Judge. Having regard to the facts and circumstances and also considering the fact that respondents have already deposited a sum of

Rs.4.00 crores in this Court, we are not inclined to entertain this appeal. This appeal stands dismissed. It is made clear that the appellant is at liberty to prosecute the aforesaid Notices of Motions before learned Single Judge strictly on its own merits in accordance with law.

(DR.S.RADHAKRISHNAN, J.)

(S.C.DHARMADHIKARI, J.)